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Kansas CMS Emergency Preparedness CoP Newsletter Issue 2 January 2017

Monitoring & Consequences

Q. Which agencies will be involved in monitoring compliance? Will monitoring for compliance include State and/or local health officials and emergency management? Are there ways to coordinate monitoring and compliance with local Health/Emergency Management Officials? Will CMS ask local Health/Emergency officials to sign-off (or at least be involved in the process) verifying that these organizations have met the requirements or at least involved in the process of signing-off on?
A: The State Survey Agencies (SA), Accreditation Organizations (AOs), and CMS Regional Offices (ROs) will be involved in monitoring for compliance as is the case with all other requirements for participation in Medicare. Facilities may choose to work with local health and emergency management officials to review the facility's plan to meet local requirements. The facility has the option of choosing to seek approval of its plan from state/local emergency preparedness officials. We do not regulate state and local emergency management officials.

Q: What are the consequences for not meeting these new requirements? Will any leniency be given for organizations that have started this type of planning but didn't complete by November 15, 2017? Will any warnings be issued before any actions taken against a particular organization?
A: Providers/suppliers have one year to implement the emergency preparedness requirements. Surveying for compliance to these requirements will begin in November 15, 2017. There will be no exceptions for the requirements and non-compliance will follow the same process non-compliance with any other Conditions of Participation (CoPs) and Conditions for Coverage (CfCs) for the facility at hand.

"This final rule issues emergency preparedness requirements that establish a comprehensive, consistent, flexible, and dynamic regulatory approach to emergency preparedness and response that incorporates lessons learned..."

- Federal Register, 9/16/2016

Emergency Preparedness Meeting

In This Issue

An Emergency Plan is the first item listed in the new regulations

Emergency Plan Q & A

Q: If a large health system has operating guidelines which include language described in the policies and procedures section, but does not have formal policies as approved by the hospital board etc., are healthcare facilities required to have formal policies or are official operating guidelines sufficient?
A: The regulation is clear that facilities must have “policies and procedures” in place as opposed to “operating guidelines.” Policies are considered a more formal, definite method or course of action to be adhered to. Therefore facilities must develop and maintain “policies” and procedures to meet the requirements of the regulation. Facilities may choose to include relevant language from their “operating guidelines” in their policies and procedures as appropriate. Facilities should be aware that surveyors may ask to see a copy of the facilities “policies” and not “operating guidelines.”

Q: The rule implies that facilities need to ensure their vendors have a business continuity plan to continue to provide a supply source during times of emergency. Do you have any guidance as to what vendors need to have or what they should provide to these facilities that will make the facilities compliant?
A: Facilities are required to provide subsistence needs for staff and patients, whether they evacuate or shelter in place. Those provisions include but are not limited to: food, water, medical supplies and pharmaceutical supplies.

General Comment
If a non-participating entity is located within a Medicare and/or Medicaid participating facility, we would expect the participating facility to consider the non-participating entity when developing its emergency plans.

17 Provider Types

There are 17 provider types that are affected by this rule. They are:

- Hospitals
- Religious Nonmedical Health Care Institutions
- Ambulatory Surgical Centers
- Hospices
- Psychiatric Residential Treatment Facilities
- Programs of All-Inclusive Care for the Elderly
- Transplant Centers
- Long-Term Care Facilities
- Intermediate Care Facilities for Individuals with Intellectual Disabilities
- Home Health Agencies
- Comprehensive Outpatient Rehabilitation Facilities
- Critical Access Hospitals
- Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and Speech-Language Pathology Services
- Community Mental Health Centers
- Organ Procurement Organizations
- Rural Health Clinics and Federally Qualified Health Centers
- End-State Renal Disease Facilities

Kansas Health Alert Network

The Kansas Health Alert Network (KS-HAN) is an internet-based, secure, emergency alerting system that allows general public health and emergency preparedness information to be shared rapidly.

KS-HAN has the ability to alert registrants by organization, occupation, county, or group through e-mail, work and cell phone, and SMS text.

Since KS-HAN is the primary system used by KDHE for communication during an emergency, it is important to ensure that your organization´s registrants and their contact information are kept updated.

KS-HAN is an invitation-only system. To request an invite code or for technical assistance, e-mail your name, organization, phone number, and employer to the KS-HAN Administrator at kdhe.kshanadmin@ks.gov

You will receive an invite code by e-mail that you will be required to enter, along with your e-mail address, during registration.

More Emergency Planning

Q: CMS does not require an approved emergency preparedness plan from the local emergency official but must show coordination with local emergency management officials. What level of coordination will be considered acceptable for the facility emergency plan approval? Will a facility only need an approval for their emergency plan from the CMS servicing agency?
A: Providers and suppliers must document efforts made by the facility to cooperate and collaborate with emergency preparedness officials. While we are aware that the responsibility for ensuring a coordinated disaster preparedness response lies upon the state and local emergency planning authorities, the rule states that providers and suppliers must document efforts made by the facility to cooperate and collaborate with emergency preparedness officials. Since some aspects of collaborating with various levels of government entities may be beyond the control of the provider/supplier, we have stated that these facilities must include in their emergency plan a process for cooperation and collaboration with local, tribal, regional, state, and federal emergency preparedness officials. We also encourage providers and suppliers to engage and collaborate with their local HCC, which commonly includes the health department, emergency management, first responders, and other emergency preparedness professionals. Facilities are required to coordinate with local management officials, such as with their communication plans. For instance, facilities are required to have documentation of their efforts to contact such officials and, when applicable, its participation in collaborative and cooperative planning efforts. Facilities are required to have contact information for emergency officials and who they should contact in emergency events; maintain an emergency preparedness communication plan that complies with both federal and state law; and be able to demonstrate collaboration through the full-scale exercises. We are not requiring official “sign-off” from local emergency management officials; however, if the state requires this action, we would expect that facilities comply with their state laws.

Q: In the past, new facilities seeking licensure needed an approved Comprehensive Emergency Management Plan from local officials. Who will review and approve plans for new facilities in order for them to obtain their licensure?
A: We cannot address how the new regulation will affect state licensure laws. Facilities should contact their state licensing agencies for clarification. *Kansas, when reviewing new facility licensure applications will review the application and accompanying policies based on Kansas regulations and not CMS CoPs.*

Q: For formatting of the documentation, the standard state policies & procedures are required. Our documents are structured as an Emergency Operations Plan with addendums. Is this allowable?
A: We are not requiring a specific format for the manner in which a facility should have their Emergency Plans documented. Upon survey, a facility must be able to provide documentation of the policies and procedures and show surveyors where the policies and procedures are located.

Q: There are repeated references in the rule to business continuity, business resilience and continuity of operations, but not much clarity is provided as to how the rule differentiates these things or specific requirements. Can you provide more detail as to what will be surveyed?
A: We did not find any references to the term “business resilience” in the final rule. Business continuity and continuity of operations have the same meaning in the context of this rule.
The Assistant Secretary for Preparedness and Response has developed a document that includes information to assist facilities in planning for continuity of operations. The document may be found at: http://www.phe.gov/Preparedness/planning/hpp/reports/Documents/hc-coop2-recovery.pdf

Exercises

Q: What are the requirements for Ambulatory Surgical Centers (ASCs) regarding the participation in a community full- scale exercise?
A: Per 416.54(d)(2)(i) of the final rule an ASC is required to participate in a full-scale exercise that is community-based. If the ASC experiences an actual natural or man-made emergency that requires activation of the emergency plan, the ASC is exempt from engaging in a community-based or individual, facility-based full-scale exercise for 1 year following the onset of the actual event. (64024 Federal Register / Vol. 81, No. 180 / Friday, September 16, 2016 / Rules and Regulations) Please refer to page 63900 of the final rule that stated if a community disaster drill is not available, we would require an ASC to conduct an individual facility-based disaster drill.

Q: Regarding fulfilling the testing needs: Do we need to conduct two tests a year? And minimally one of them needs to be a community based test? If an emergency presents itself between November 15, 2017 and December 31, 2017, would that satisfy one testing need? Would that be the community based need? And would that cover us for the period until November 15, 2018 or until the end of the calendar year 2017?
A: Facilities are required to participate in a full-scale exercise that is community-based or when an individual facility-based exercise when a community-based exercise is not accessible AND conduct an additional exercise that may include a second full-scale community or facility-based exercise or a tabletop exercise (as described in the regulations.) So yes, a facility is required to conduct two exercises annually. If the facility experienced an emergency and had to activate its emergency plan between November 15, 2017 and December 31, 2017 that would satisfy one of the annual testing requirements and would exempt the facility from engaging in a community or facility based exercise for one year following the date of the actual emergency event. The “annual” testing requirement will not be measured on a calendar year basis which is January 1 through December 31. The annual requirement will be measured from the date of the last actual emergency event or the date the exercise/testing took place.

Preparedness Resources

Kansas Hospital Association—Preparedness Information
http://www.kha-net.org/AboutKHA/KHERFFoundation/HospitalPreparednessProgram/

Kansas Department of Health and Environment—Templates and Guides
http://www.kdheks.gov/cphp/operating_guides.htm

Office of the State Fire Marshal—Healthcare Facilities
https://firemarshal.ks.gov/information-on/healthcare

Kansas Commission on Disability Concerns—Document Center
https://kcdcinfo.ks.gov/resources/document-center

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